



Paper No. 8

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OFFICE OF PETITIONS

In re Application of
Foster et al.
Application No. 10/062,199
Filed: October 26, 2001
Attorney Docket No. 030048019US1

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DECISION GRANTING PETITION
UNDER 37 CFR 1.137(f)

This is a decision on the "Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b)," filed June 15 2003, which is properly treated as a petition to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT application filed on April 19, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application¹.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

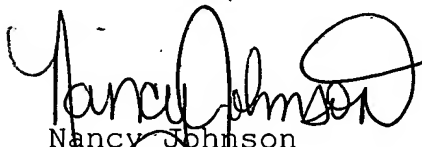
The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

¹ A Rescission of Nonpublication Request was filed on May 6, 2002. However, it was not accompanied by a Notice of Foreign Filing.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) was rescinded. The application was published on October 31, 2002.

The application is being forwarded to Technology Center 2664 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.


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